U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of DORIS E. WILSON and U.S. POSTAL SERVICE,
POST OFFICE, St. Louis, MO

Docket No. 99-2328; Submitted on the Record;
Issued October 24, 2000

DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,
VALERIE D. EVANS-HARRELL

The issue is whether appellant had any disability or medical residuals requiring further medical treatment after September 30, 1997, the date the Office of Workers' Compensation Programs terminated her compensation entitlement, causally related to her June 19, 1997 lumbar soft tissue muscular strain injury.

On February 4, 1998 appellant, then a 41-year-old technical carrier, filed an occupational disease claim alleging that she sustained back injury causally related to factors of her federal employment. Appellant indicated that she became aware of her condition on June 19, 1997; she stopped work on June 26, 1997, took sick and annual leave and returned to work on July 22, 1997 on light duty. In an accompanying statement, appellant discussed the weight of her mailbag and claimed that after completing her routes she began to have hip pains.

In support of her claim, appellant submitted an undated statement from her treating physician, Dr. Paul D. Selvadurai, a Board-certified internist, which noted that she had been under his care since June 26, 1997 for "Sciatica L/S." Dr. Selvadurai opined that appellant was incapacitated due to this diagnosis but noted that she could return to work on July 21, 1997 and was advised "to use a cart to carry mail to take strain away from her back."

By report dated October 24, 1997, Dr. Elbert H. Cason, an employing establishment medical officer, opined that appellant was not fit for normal duty, that she was limited to lifting and carrying no more than 20 pounds and that he did not know the reason for her paresthesias, but that he suspected they were temporary and were "related to some type of strain." Dr. Cason also noted that appellant's left hip strain was also temporary but would be aggravated by her regular duties.

By report dated January 29, 1998, Dr. Selvadurai noted that appellant still suffered from back pain and leg pain and had been advised not to carry a mailbag. However, causal relationship was not discussed.

By letter dated March 19, 1998, the Office requested further information including a rationalized medical opinion supporting causal relation.

Appellant responded by submitting another personal statement.

By decision dated April 21, 1998, the Office rejected appellant's claim finding that the record lacked any rationalized medical opinion evidence supporting causal relationship with her employment.

Thereafter, appellant requested an oral hearing, which was held on December 16, 1998. In support of her testimony at the hearing, appellant submitted two reports from Dr. Selvadurai dated May 12 and August 11, 1998. He noted in his May 12, 1998 report that appellant was diagnosed with back strain, left leg pain and questionable sciatica related to carrying heavy material and that her back and leg injuries were as a result of her carrying a mailbag. Current disability was not discussed. In his August 11, 1998 report, Dr. Selvadurai stated that appellant "can perform the following activities: Pulling, pushing, carrying, reaching/working above the shoulders, operating a motor vehicle. Walking, standing, sitting, climbing, stooping, kneeling and repeated bending can each be done for eight hours a day." Although Dr. Selvadurai noted a lifting restriction of no more than 20 pounds, he opined that she could work 8 hours per day.

By decision dated February 25, 1999, the hearing representative remanded the case to the Office finding that the evidence of record constituted substantial evidence sufficient to warrant further development of the case by the Office.

Upon remand, the Office referred appellant, together with a statement of accepted facts, questions to be addressed and the relevant reports of record, to Dr. Jerome G. Piontek, a Board-certified orthopedic surgeon, for a second opinion.

By report dated April 7, 1999, Dr. Piontek reviewed appellant's factual and medical history, noted her present complaints, reported the results of his physical examination and opined:

> "My impression is that [appellant] may have had a mild lumbar strain at the time of her original complaints. I do not find any relationship, however, between the factors as outlined in the statement of accepted facts and her present descriptions of intermittent leg pain. She does not have any residual disability as a result of her duties as a mail carrier.
>
> "My impression is that the disability and impairment related to her low back strain would have resolved as of two months subsequent to her complaints of initial injury. She has no objective data to support any residual low back or leg problems."

By decision dated June 11, 1999, the Office accepted that appellant sustained lumbar strain, which resolved as of September 30, 1997. The Office found that Dr. Piontek's report constituted the weight of the medical opinion evidence of record and established that disability due to the June 19, 1997 low back strain had resolved after two months. The Office indicated

that medical expenses due to the accepted occupational injury should be submitted to the Office for payment.

The Board finds that appellant had no disability or medical residuals requiring further medical treatment after September 30, 1997, causally related to her June 19, 1997 lumbar soft tissue muscular strain injury.

Once the Office accepts a claim, it has the burden of justifying termination or modification of compensation benefits.[1] After it has determined that an employee has disability causally related to his or her federal employment, the Office may not terminate compensation without establishing that the disability has ceased or that it is no longer related to the employment.[2] Further, the right to medical benefits for an accepted condition is not limited to the period of entitlement to compensation for wage loss.[3] To terminate authorization for medical treatment, the Office must establish that appellant no longer has residuals of an employment-related condition that require further medical treatment.[4]

In the instant case, appellant's treating physician, Dr. Selvadurai, opined that she could return to duty on July 21, 1997. Therefore, his report did not support disability due to lumbar soft tissue muscular strain after September 30, 1997. The need for further medical treatment for lumbar soft tissue muscular strain after that date was not identified.

On October 24, 1997 Dr. Cason, the employing establishment medical officer, noted only that appellant was not fit for regular duty, that she had a 20-pound lifting limit and that her paresthesias were temporary and were related to "some type of strain." However, no disability after September 30, 1997, causally related to lumbar soft tissue muscular strain, was identified. The need for further medical treatment for lumbar soft tissue muscular strain after that date was also not identified.

On January 29, 1998 Dr. Selvadurai noted that appellant still suffered from back pain and leg pain and had been advised not to carry a mailbag, but identified no continuing disability due to a June 19, 1997 lumbar soft tissue muscular strain at that time or at any time after September 30, 1997, nor any need for further medical treatment for that condition. Therefore, this report did not support continuing disability after September 30, 1997 due to the accepted employment condition nor the need for further medical treatment for that condition.

On May 12, 1998 Dr. Selvadurai noted that appellant was diagnosed with back strain, left leg pain and questionable sciatica related to carrying heavy material and that her back and leg injuries were as a result of her carrying a mailbag. However, no disability after September 30,

[1] *Harold S. McGough*, 36 ECAB 332 (1984).

[2] *Vivien L. Minor*, 37 ECAB 541 (1986); *David Lee Dawley*, 30 ECAB 530 (1979); *Anna M. Blaine*, 26 ECAB 351 (1975).

[3] *Marlene G. Owens*, 39 ECAB 1320 (1988).

[4] *See Calvin S. Mays*, 39 ECAB 993 (1988); *Patricia Brazzell*, 38 ECAB 299 (1986); *Amy R. Rogers*, 32 ECAB 1429 (1981).

1997, causally related to a June 19, 1997 lumbar soft tissue muscular strain, was identified. The need for further medical treatment for lumbar soft tissue muscular strain after that date was also not identified.

In his August 11, 1998 report, Dr. Selvadurai stated that appellant could perform pulling, pushing, carrying, reaching/working above the shoulders, operating a motor vehicle, walking, standing, sitting, climbing, stooping, kneeling and repeated bending, each for eight hours a day. Dr. Selvadurai opined at that time that she could work 8 hours per day. This report does not support disability after September 30, 1997 causally related to her lumbar soft tissue muscular strain, or identify the need for further medical treatment for lumbar soft tissue muscular strain after that date.

Therefore, appellant has not presented any medical evidence, which supports disability after September 30, 1997 causally related to lumbar soft tissue muscular strain, or identifies the need for further medical treatment for lumbar soft tissue muscular strain after that date.

In contrast, Dr. Piontek opined, based upon a complete and accurate factual and medical background and a thorough examination, which found no objective evidence of residual disability, that appellant might have had a mild lumbar strain at the time of her original complaints, but that no relationship between the factors as outlined in the statement of accepted facts and her present descriptions of intermittent leg pain was found. He opined in a complete and well-rationalized report, that appellant did not have any residual disability as a result of her duties as a mail carrier. Dr. Piontek further opined that the disability and impairment related to her low back strain would have resolved as of two months subsequent to her complaints of initial injury and cited as rationale that examination revealed no objective data to support any residual low back or leg problems.

In the present case, the report of Dr. Piontek constitutes the weight of the rationalized medical evidence because it was based upon a complete factual and medical history and a complete examination of appellant, because it was consistent with examination findings and of reasonable medical certainty and because it was well rationalized and supported by physical evidence noted in the record.[5] Accordingly, the Office has discharged its burden of proof to justify termination of appellant's compensation after September 30, 1997.

As no disability or impairment due to appellant's lumbar soft tissue muscular strain was found after September 30, 1997, as no injury-related residuals were identified after that date and as no need for further medical treatment for unspecified residuals of the lumbar soft tissue muscular strain was identified after that date, the Office properly relied on Dr. Piontek's report as the weight of the medical evidence of record in establishing that appellant had no disability or injury residuals requiring further medical treatment after September 30, 1997, a date almost three and one half months after her June 19, 1997 accepted injury, causally related to her June 19, 1997 lumbar soft tissue muscular strain the Office has thereby discharged its burden of proof to

[5] *See Anna C. Leanza*, 48 ECAB 115 (1996); *Cleopatra McDougal-Saddler*, 47 ECAB 480 (1996); *Clara T. Norga*, 46 ECAB 473 (1995).

justify termination of appellant's monetary compensation entitlement and entitlement to further medical benefits for treatment of the accepted employment injury after September 30, 1997.

Accordingly, the decision of the Office of Workers' Compensation Programs dated June 11, 1999 is hereby affirmed.[6]

Dated, Washington, DC
October 24, 2000

Michael J. Walsh
Chairman

Willie T.C. Thomas
Member

Valerie D. Evans-Harrell
Alternate Member

[6] The February 25, 1999 hearing representative decision, was not adverse to appellant, therefore, the Board has jurisdiction to review it; *see* 20 C.F.R. § 501.3(a).